



## Inland Empire Waterkeeper

Advocacy • Education • Restoration • Enforcement

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May 1, 2014

### **VIA CERTIFIED MAIL**

Forged Metals, Inc.  
Attention: Managing Agent  
10685 Beech Avenue  
Fontana, California 92337

### **VIA U.S. MAIL**

National Corporate Research, LTD  
Registered Agent for  
Forged Metals, Inc.  
523 W. 6th Street, Suite 544  
Los Angeles, California 90014

### **Re: Notice of Violation and Intent to File Suit Under the Clean Water Act**

To Whom It May Concern:

I am writing on behalf of Inland Empire Waterkeeper and Orange County Coastkeeper (collectively "Waterkeeper") in regard to violations of the Clean Water Act<sup>1</sup> and California's Storm Water Permit<sup>2</sup> occurring at 10685 Beech Avenue, Fontana, California 92337 ("Forged Metals Facility" or "Facility"). This letter is being sent to you as the responsible owner and/or operator of the Forged Metals Facility, or as the registered agent for this entity. This letter puts Forged Metals, Inc. (hereinafter referred to as the "Forged Metals Facility Owner and/or Operator") on notice of the violations of the Storm Water Permit occurring at the Forged Metals Facility including, but not limited to, discharges of polluted storm water from the Forged Metals Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the Forged Metals Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that a citizen give notice of his/her intention to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a). Notice must be given to the alleged

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<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

<sup>2</sup> National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.



violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the state in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter"), Waterkeeper puts the Forged Metals Facility Owner and/or Operator on notice that after the expiration of sixty (60) days from the date of this Notice Letter, Waterkeeper intends to file an enforcement action in Federal court against it for violations of the Storm Water Permit and the Clean Water Act.

## **I. BACKGROUND**

### **A. Inland Empire Waterkeeper and Orange County Coastkeeper**

Inland Empire Waterkeeper's office is located at 6876 Indiana Avenue, Suite D, Riverside, California 92506. Inland Empire Waterkeeper is a chapter of Orange County Coastkeeper. Orange County Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Together, Inland Empire Waterkeeper and Orange County Coastkeeper have over 2,000 members who live and/or recreate in and around San Bernardino County and the Santa Ana River watershed. Inland Empire Waterkeeper and Orange County Coastkeeper are dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of their local watersheds, including the Santa Ana River and its tributaries. To further these goals, Waterkeeper actively seeks federal and state agency implementation of the Clean Water Act and, where necessary, directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper use and enjoy the waters into which the Forged Metals Facility discharges, including the Santa Ana River and its tributaries. Members of Waterkeeper use and enjoy the Santa Ana River and its tributaries to picnic, hike, view wildlife, and engage in scientific study, including monitoring activities, among other things. Procedural and substantive violations of the Storm Water Permit including, but not limited to, the discharge of pollutants from the Forged Metals Facility impairs each of these uses. Further, these violations are ongoing and continuous. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by the Forged Metals Facility Owner's and/or Operator's failure to comply with the Storm Water Permit and the Clean Water Act.

### **B. The Owner and/or Operator of the Forged Metals Facility**

Information available to Waterkeeper indicates that Forged Metals, Inc. is an owner and/or operator of the Forged Metals Facility. Forged Metals, Inc. is an active corporation registered in California. The registered agent for Forged Metals, Inc. is National Corporate Research, LTD, located at 523 W. 6th Street, Suite 544, Los Angeles, California 90014.



The Forged Metals Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the Forged Metals Facility into local surface waters. As explained herein, the Forged Metals Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

### **C. The Forged Metals Facility's Storm Water Permit Coverage**

Prior to beginning industrial operations, dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI") to the State Water Resources Control Board ("State Board"). *See* Storm Water Permit, Finding #3. The Forged Metals Facility Owner and/or Operator submitted an NOI for the Forged Metals Facility on May 26, 1992 ("1992 NOI"). The NOI indicated that the Facility is approximately six (6) acres in size. The Forged Metals Facility Owner and/or Operator submitted a Notice of Intent for Existing Facility Operators, as required by the State Board, on February 24, 1998 ("1998 NOI"). A third NOI, dated June 23, 2010 ("2010 NOI"), is also on file with the State Board for the Forged Metals Facility and lists the size of the Facility as eight (8) acres. The 1992 NOI, 1998 NOI, and 2010 NOI list the Waste Discharge Identification ("WDID") number for the Forged Metals Facility as 8-36I007116.

The 1992 NOI, 1998 NOI, and 2010 NOI list the Standard Industrial Classification ("SIC") code for the Forged Metals Facility as 3462 (Iron and Steel Forgings). Facilities classified as SIC code 3462 are covered by the Storm Water Permit in areas where industrial materials, equipment, or activities are exposed to storm water. *See* Storm Water Permit, Attachment 1. Information available to Waterkeeper indicates that industrial activities are exposed to storm water at the Forged Metals Facility, such as unloading of raw materials and loading of finishing products. Additionally, unprocessed materials, equipment, and scrap materials are stored outdoors in areas exposed to storm water. The Storm Water Permit regulates the areas where these activities and equipment are exposed to storm water at the Forged Metals Facility.

Information available to Waterkeeper indicates that SIC code 3398 (Metal Heat Treating) also applies to the Forged Metals Facility. The Facility's Storm Water Pollution Prevention Plan ("SWPPP") and site map specifically identify and describe a "heat treatment area" located in the northeastern portion of the Facility where metals are annealed and/or hardened, and thus this SIC code applies to the Facility. When a manufacturing facility is classified under SIC code 3398, the entire facility is regulated by the Storm Water Permit. *See* Storm Water Permit, Attachment 1. Therefore, the entire Forged Metals Facility is subject to the Storm Water Permit's requirements. In addition, the Forged Metals Facility October 2007 SWPPP states, "The Permit covers the



entire Facility.” 2007 SWPPP, page 4.<sup>3</sup>

**D. Storm Water Pollution and the Waters Receiving the Forged Metals Facility’s Discharges**

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations such as the Forged Metals Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and adversely impact aquatic-dependent wildlife. These contaminated discharges can and must be controlled for downstream ecosystems to regain their health.

Storm water discharges from metal forging facilities, like the Forged Metals Facility, contain pollutants such as oil and grease (“O&G”), total suspended solids (“TSS”), specific conductance (“SC”), and heavy metals (such as copper, iron, lead, aluminum, and zinc). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. Discharges of polluted storm water to the Santa Ana River and its tributaries pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Santa Ana River and its tributaries are receiving waters for discharges from the Forged Metals Facility. The Santa Ana River is an ecologically sensitive area. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the Santa Ana River and its tributaries still provide essential habitat for dozens of fish, bird, and invertebrate species. These pollutants harm the special aesthetic and recreational significance that the Santa Ana River has for people in the surrounding communities, including Waterkeeper’s members. The public’s use of the Santa Ana River and its tributaries for water contact sports exposes people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Santa Ana River and its tributaries.

The California Regional Water Quality Control Board, Santa Ana Region Regional Board (“Regional Board”) issued the *Santa Ana River Basin Water Quality Control Plan* (“Basin Plan”). The Basin Plan identifies the “Beneficial Uses” of water bodies in the region. The Beneficial Uses for the Santa Ana River near or downstream of the point at which it receives polluted storm water discharges from the Forged Metals Facility (i.e., Santa Ana River Reaches 1 – 4) include: Agricultural Supply; Groundwater Recharge; Water Contact Recreation; Non-contact Water Recreation; Warm Freshwater Habitat; Wildlife Habitat; and Rare, Threatened, or Endangered Species. See Basin Plan at Table 3-1. According to the 2010 303(d) List of Impaired

<sup>3</sup> This is the SWPPP that the Forged Metals Facility Owner and/or Operator submitted following the California Regional Water Quality Control Board’s February 11, 2014 request for the Facility’s most recent SWPPP.



Water Bodies, Reach 4 of the Santa Ana River is impaired for pathogens, Reach 3 is impaired for copper, lead, and pathogens, and Reach 2 is impaired for indicator bacteria.<sup>4</sup> Polluted discharges from industrial sites such as the Forged Metals Facility contribute to the degradation of these already impaired surface waters and of the ecosystems that depend on these waters.

## **II. THE FORGED METALS FACILITY AND ASSOCIATED DISCHARGES OF POLLUTANTS**

### **A. The Forged Metals Facility Site Description**

Information available to Waterkeeper indicates that the Forged Metals Facility is approximately eight (8) acres and 20% impervious. The Facility property is bordered by Beech Avenue to the west, between Slover Avenue and Manila Street. The points of egress/ingress to the Facility include three (3) driveways leading to Beech Avenue, including one in the southwest corner of the property, one in the middle of the property at the west end of the central parking lot, and one in the northwest corner of the property at the end of the north parking lot.

Information available to Waterkeeper indicates that the Facility includes a shipping and receiving area in the northeast corner of the Facility at the end of the north parking lot that is used to unload raw materials and load finished products before shipping. Just east of the shipping and receiving area is the heat treatment area, which includes several furnaces and large baths, plus an open-air cooling water system. The Facility also includes a machine shop building that is located towards the center of the Facility and south of the center parking lot. Metal products are manufactured, honed, and customized in this building. Metal scraps and pieces are also stored in this building before they are disposed or recycled. Just south of the machine shop building is the grinding area, which includes several enclosed areas for maintaining tools and parts. On the south end of the Facility is the forging area, which is an enclosed area where equipment is stored and most of the metal processing occurs, including the use of furnaces, hammers, open and closed die casting, and extrusion equipment. Cooling water is also brought into this area for the cooling of forging equipment. Steam cleaning occurs along the north wall of the forging area. Finally, the wastewater treatment area is located just west of the steam cleaning area and processes all of the cooling water in the Facility, particularly from the heat treatment area and forging area.

### **B. The Forged Metals Facility Industrial Activities and Associated Pollutants**

According to information available to Waterkeeper, the Forged Metals Facility manufactures rings for the aerospace industry and produces customized forgings for numerous other products, such as prosthetic surgery, land-based gas turbines, and diesel engines. The Forged Metals Facility's industrial activities and areas are pollutant sources and include, but are

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<sup>4</sup> 2010 Integrated Report – All Assessed Waters, available at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml) (last accessed on April 8, 2014).



not limited to: metal product manufacturing and processing; metal forging area; shipping, receiving, and moving products around the Facility; equipment and vehicle maintenance, cleaning, and storage; unloading raw materials; loading finished products; heat treatment area; the cooling water systems; scrap storage; steam cleaning; metal grinding area; waste water treatment area; unprocessed material storage and scrap storage areas; the machine shop; and the three (3) on-site parking lots.

The pollutants associated with the Facility include, but are not limited to: O&G; heavy metals, including, but not limited to, aluminum, iron, lead, copper, and zinc; TSS; nitrate + nitrite nitrogen; trash and debris; gas, diesel, fuel, and fuel additives; fugitive and other dust and dirt; and pH-affecting substances.

Information available to Waterkeeper indicates that storage of vehicles and equipment, storage of materials associated with metal forging, and other industrial activities occur outdoors at the Facility without adequate cover to prevent storm water and non-storm water exposure to pollutant sources, and without secondary containment or other adequate treatment measures to prevent polluted storm water and non-storm water from discharging from the Forged Metals Facility. Further, information available to Waterkeeper indicates that the pollutants associated with the Facility have been and continue to be tracked throughout the Forged Metals Facility, where they accumulate at the storm water discharge points and the driveways leading to Beech Avenue. This results in trucks and vehicles tracking sediment, dirt, oil, grease, metal particles, and other pollutants off-site. The resulting illegal discharges of polluted water impacts Waterkeeper's members' use and enjoyment of the Santa Ana River and its tributaries by degrading the quality of the Santa Ana River and by posing risks to human health and aquatic life.

### **C. Forged Metals Facility Storm Water Flows and Discharge Locations**

The Forged Metals Facility Owner and/or Operator reports that there are two (2) discharge points located on-site and that one of them, called the Main Storm Drain, is the only point of off-site storm water discharge. The Main Storm Drain is located in the southwest corner of the Facility near the south parking lot. The Facility's SWPPP states that storm water from the entire Facility is routed by underground piping, gutters, and/or gravity to the Main Storm Drain. However, information available to Waterkeeper indicates that at least four (4) other storm water discharge points exist at the Facility, including the north curb and south curb of the driveway that leads from the center parking lot onto Beech Avenue and the north curb and south curb of the driveway that leads from the north parking lot onto Beech Avenue. All discharge points lead to the municipal separate storm sewer system, which flows to the Santa Ana River.

## **III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT**

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants.



See 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); *see also* Storm Water Permit, Fact Sheet at VII.

**A. Discharges of Polluted Storm Water from the Forged Metals Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit**

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of best management practices ("BMPs") that achieve best available technology economically achievable ("BAT") for toxic pollutants<sup>5</sup> and best conventional pollutant control technology ("BCT") for conventional pollutants.<sup>6</sup> Benchmark Levels are relevant and objective standards to evaluate whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.<sup>7</sup>

Storm water sampling at the Forged Metals Facility demonstrates that the Facility's storm water discharges contain concentrations of pollutants above the Benchmark Levels. *See* Exhibit A (table listing the Facility's storm water samples exceeding Benchmark Level(s), as reported to the Regional Board by the Forged Metals Facility Owner and/or Operator and in samples collected by Waterkeeper). The repeated and significant exceedances of Benchmark Levels demonstrate that the Forged Metals Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent discharges of polluted storm water from the Forged Metals Facility, in violation of Effluent Limitation B(3) of the Storm Water Permit.

Information available to Waterkeeper indicates that the Forged Metals Facility Owner and/or Operator violates Effluent Limitation B(3) of the Storm Water Permit for failing to develop and/or implement BMPs that achieve BAT/BCT each time storm water is discharged from the Forged Metals Facility. *See e.g.*, Exhibit C (setting forth dates of rain events resulting in a discharge at the Facility).<sup>8</sup> These discharge violations are ongoing and will continue each day the Forged Metals Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the number and dates of violation when additional information and data becomes available. Each time the Forged Metals Facility Owner and/or Operator discharges

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<sup>5</sup> Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

<sup>6</sup> Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

<sup>7</sup> *See* EPA Storm Water Multi-Sector Permit (2008), Fact Sheet, p. 106; *see also*, EPA Storm Water Multi-Sector Permit, 65 Federal Register 64839 (2000).

<sup>8</sup> Exhibit C sets forth dates of significant rain events as measured at the San Bernardino County Yard rain gauge from May 1, 2009 to May 1, 2014. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in measurable discharges at a typical industrial facility.



polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

**B. Discharges of Polluted Storm Water from the Forged Metals Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit**

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water or ground water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable water quality standard ("WQS").<sup>9</sup> Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

As explained above in Section I.D, the 2010 303(d) List of Impaired Water Bodies lists the Santa Ana River as impaired for multiple pollutants. Information available to Waterkeeper indicates that the Forged Metals Facility's storm water discharges contain elevated concentrations of pollutants, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Santa Ana River. *See* Exhibit B (table listing the Facility's storm water samples containing pollutants). Discharges of elevated concentrations of pollutants in the storm water from the Forged Metals Facility also adversely impact human health. These harmful discharges from the Forged Metals Facility are violations of Receiving Water Limitation C(1).

The Forged Metals Facility storm water discharges also contain concentrations of pollutants that cause or contribute to violations of applicable WQSs. *See* Exhibit A (table listing the Facility's storm water samples exceeding applicable WQSs, as reported to the Regional Board by the Forged Metals Facility Owner and/or Operator and in samples collected by Waterkeeper). Storm water discharges from the Forged Metals Facility that cause or contribute to exceedances of WQSs are violations of Receiving Water Limitation C(2).

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<sup>9</sup> As explained above in Section I.D, the Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of the Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and the water quality objectives in the Basin Plan.



Information available to Waterkeeper indicates that the storm water discharges from the Forged Metals Facility violate Receiving Water Limitations C(1) and/or C(2) each time storm water is discharged from the Facility. These violations are ongoing, and will continue each time contaminated storm water is discharged in violation of Receiving Water Limitation C(1) and/or C(2) of the Storm Water Permit. Each time discharges of storm water from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Each time discharges of storm water from the Forged Metals Facility cause or contribute to an exceedance of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Waterkeeper will update the number and dates of violations when additional information becomes available. The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

**C. Non-Storm Water Discharges from the Forged Metals Facility in Violation of Discharge Prohibition A(1) of the Storm Water Permit**

Except as authorized by Special Conditions D(1) of the Storm Water Permit, Discharge Prohibition A(1) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. See Storm Water Permit, Discharge Prohibition A(1).

Information available to Waterkeeper indicates that unauthorized non-storm water discharges occur at the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges. For example, the Forged Metals Facility's SWPPP states that a cooling water system is used inside of the heat treatment area and this system may leak onto the asphalt outside. The SWPPP does not identify these leaks as non-storm water discharges, nor does it include BMPs to address the leaks or to prevent these non-storm water discharges. Additionally, the SWPPP does not identify what pollutants would be in leaking cooling water, but only refers to the "things" in the cooling water "that might contaminate storm water." Cooling water is also used in the Facility's industrial activities, and is a potential source of non-storm water discharges in the heat treatment and forging areas. Further, the SWPPP states that the Facility's cooling water gets processed in the waste water treatment area and then is "drained." However, this drained water is not identified as a non-storm water discharge and there are no BMPs to prevent non-storm water discharges from the Facility. Non-storm water discharges resulting from cooling water system leaks and waste water treatment draining are not from sources that are listed among the authorized non-storm water discharges in Special Conditions D(1) of the Storm Water Permit and thus are always prohibited under the Storm Water Permit.

Waterkeeper puts the Forged Metals Facility Owner and/or Operator on notice that Discharge Prohibition A(1) of the Storm Water Permit is violated each time non-storm water is



discharged from the Forged Metals Facility. These discharge violations are ongoing and will continue until the Forged Metals Facility Owner and/or Operator develops and implements BMPs that prevent prohibited non-storm water discharges or obtains separate NPDES permit coverage. Each time the Forged Metals Facility Owner and/or Operator discharges prohibited non-storm water in violation of Discharge Prohibition A(1) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

**D. Failure to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan**

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objectives of the SWPPP requirement are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Forged Metals Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and (10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* Storm Water Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* Storm Water Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* Storm Water Permit, Section A(6)). Sections A(7) and A(8) of the Storm Water Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to Waterkeeper indicates that the Forged Metals Facility Owner and/or Operator has been conducting operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, the SWPPP site map for the Forged Metals Facility does not include all of the information required by Section A(4) of the Storm Water Permit, such as the Facility boundaries, an outline of all storm water drainage areas within the Facility boundaries, portions of the drainage area impacted by run-on from surrounding area, areas of soil



erosion, nearby waterbodies, the location of the storm water collection and conveyance system, discharge locations, structural control measures that affect storm water discharges, an outline of all impervious areas of the Facility, locations where materials are directly exposed to precipitation, or all areas of industrial activity.

Additionally, the Facility SWPPP does not identify the names of the pollution prevention team members or the significant materials handled and stored at the Facility to the extent required by the Storm Water Permit. Further, the Storm Water Permit requires the SWPPP to describe the types of pollutants that could be discharged in a facility's storm water discharges. However, the SWPPP only uses general words such as "things," "chemicals," "metals," and "various lubricants" to describe pollutants associated with industrial activities at the Facility, rather than identifying what pollutants are associated with, for example, cooling water system leaks, as required by the Storm Water Permit. Such specificity is required to develop adequate BMPs to reduce the different pollutants from the Facility's discharges. Although the SWPPP makes multiple references to worksheets that may include additional information required by the Storm Water Permit, these worksheets were not included in the current SWPPP that the Forged Metals Facility Owner and/or Operator provided to the Regional Board. Further, even when more specific pollutants are identified, the SWPPP still does not include all of the information required by the Storm Water Permit about these pollutants, such as the characteristics or quantity of the significant materials.

Additional examples of the Forged Metals Facility Owner's and/or Operator's failure to develop and/or implement a SWPPP that complies with the Storm Water Permit include the lack of any description of dust and particulate pollutants generated by the Facility's industrial activities, the Facility's non-storm water discharges, or areas of soil erosion. The SWPPP also does not include a summary of all areas of industrial activities and the potential pollutants in a table resembling Table B in the Storm Water Permit, as required by Section A(6)(b) of the Storm Water Permit. Further, the descriptions of the BMPs in the SWPPP do not comply with the Storm Water Permit requirements.

The Forged Metals Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges every year since at least the 2008-2009 Wet Season,<sup>10</sup> the Facility's current SWPPP is dated October 11, 2007, and therefore was never revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit. Further, in the Facility's 2008-2009 Annual Report the Forged Metals Facility Owner and/or Operator described changes to the Facility's training program to improve storm water monitoring at the Facility, yet the current SWPPP pre-dates these proposed changes and was not revised as required to include these changes.

The Forged Metals Facility Owner and/or Operator has failed to adequately develop, implement, and/or revise a SWPPP, in violation of Section A and Provision E(2) of the Storm

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<sup>10</sup> The Storm Water Permit defines the Wet Season as October 1 – May 30.



Water Permit. Every day the Forged Metals Facility operates with an inadequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Forged Metals Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least May 1, 2009. These violations are ongoing, and Waterkeeper will include additional violations when information becomes available. The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

**E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program**

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* Storm Water Permit, Sections B(3) and B(4). Dischargers must revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged. Under Section B(5) of the Storm Water Permit, the facility owners and/or operators are required to collect at least two (2) samples from each discharge location at their facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). The Storm Water Permit requires facilities classified as SIC code 3462, such as the Forged Metals Facility, to also analyze storm water samples for zinc, nitrate + nitrite nitrogen, iron, and aluminum. *Id.*; *see also* Storm Water Permit, Table D, Sector AA.



Section B(7)(d) of the Storm Water Permit allows for the reduction of sampling locations in very limited circumstances when "industrial activities and BMPs within two or more drainage areas are substantially identical." If a discharger seeks to reduce sampling locations, the "[f]acility operators must document such a determination in the annual report." *Id.*

The Forged Metals Facility Owner and/or Operator has been conducting operations at the Forged Metals Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the Forged Metals Facility Owner and/or Operator has failed and continues to fail to conduct all required quarterly visual observations of unauthorized discharges, in violation of Section B(3) of the Storm Water Permit. Additionally, the Forged Metals Facility Owner and/or Operator has failed to provide the records required by Section B(4) of the Storm Water Permit for the monthly visual observations of storm water discharges.

The Forged Metals Facility Owner and/or Operator also failed to collect and analyze storm water samples as required by the Storm Water Permit. For example, only one storm water sample was collected during the 2009-2010 Wet Season, rather than the two storm water samples required by Section B(5) of the Storm Water Permit, despite qualifying rain events. Further, the Forged Metals Facility Owner and/or Operator failed to collect any storm water samples during the 2008-2009 and 2012-2013 Wet Seasons even though qualifying storm events occurred, in violation of Section B(5) of the Storm Water Permit. *See* Exhibit C. Also, samples collected by Waterkeeper show that copper is present in storm water samples from the Facility in concentrations well above the Benchmark Levels, and thus copper is present in the Facility's storm water discharges in significant quantities. As a result, the Forged Metals Facility Owner and/or Operator is required to analyze its storm water samples from the Facility for this pollutant under Section B(5)(c)(ii) of the Storm Water Permit. However, the Forged Metals Facility Owner and/or Operator has never analyzed any storm water samples for copper.

The Forged Metals Facility Owner's and/or Operator's failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that it has failed to develop, implement, and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the Forged Metals Facility Owner and/or Operator conducts operations in violation of the specific monitoring requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Forged Metals Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least May 1, 2009. These violations are ongoing, and Waterkeeper will include additional violations when information becomes available. The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

#### **F. Failure to Comply with the Storm Water Permit's Reporting Requirements**

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report



include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13).

The Forged Metals Facility Owner and/or Operator failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, in each Annual Report since the filing of the 2008-2009 Annual Report, the Forged Metals Facility Owner and/or Operator certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Waterkeeper indicates that these certifications are erroneous. For example, as discussed above, storm water samples collected from the Facility have always contained concentrations of pollutants above Benchmark Levels, thus demonstrating that the SWPPP's BMPs have never adequately addressed existing potential pollutant sources. Further, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

The Forged Metals Facility Owner and/or Operator has also submitted incomplete Annual Reports. For instance, none of the Annual Reports have included an evaluation of the visual observation and sampling and analysis results, in violation of Section B(14) of the Storm Water Permit. In addition, the facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d). The Forged Metals Facility Owner and/or Operator did not report its non-compliance as required.

Finally, the Storm Water Permit requires a permittee whose discharges violate the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Coastkeeper indicates that the Forged Metals Facility Owner and/or Operator has failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the Storm Water Permit. As such, the Forged Metals Facility Owner and/or Operator is in daily violation of this requirement of the Storm Water Permit.

Information available to Waterkeeper indicates that the Forged Metals Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, the Forged Metals Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the Forged Metals Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Forged Metals Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every



day since at least May 1, 2009. These violations are ongoing. The Forged Metals Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 1, 2009.

#### **IV. RELIEF AND PENALTIES SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT**


Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations on and after January 12, 2009. In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

#### **V. CONCLUSION**

Waterkeeper is willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for Union Pacific's violations of the Storm Water Permit. Please direct all communications to Waterkeeper's legal counsel:

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Sincerely,



Garry Brown  
Executive Director  
Orange County Coastkeeper



**SERVICE LIST**

**VIA U.S. MAIL**

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**Exhibit A**



Sample collected by Waterkeeper (W) or Discharger (D)	Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria	Magnitude of CTR Exceedance
2008/2009 WET SEASON									
no samples collected									
2009/2010 WET SEASON									
D	12/7/09	Drain #1 North	Zinc	0.267	mg/L	0.11	2.427272727	0.12	2.2
D	12/7/09	Drain #1 North	N+N	0.395	mg/L	0.068	5.808823529	none	N/A
D	12/7/09	Drain #1 North	Iron	1.33	mg/L	1	1.33	none	N/A
D	12/7/09	Drain #1 North	Aluminum	1.11	mg/L	0.75	1.48	none	N/A
D	12/7/09	Drain #2 South	Zinc	0.16	mg/L	0.11	1.454545455	0.12	1.3
D	12/7/09	Drain #2 South	N+N	0.555	mg/L	0.068	8.161764706	none	N/A
D	12/7/09	Drain #2 South	Iron	1.39	mg/L	1	1.39	none	N/A
D	12/7/09	Drain #2 South	Aluminum	0.959	mg/L	0.75	1.278666667	none	N/A
2010/2011 WET SEASON									
D	10/30/10	Drain #1	Zinc	0.55	mg/L	0.11	5	0.12	4.6
D	10/30/10	Drain #1	N+N	1.84	mg/L	0.068	27.05882353	none	N/A
D	10/30/10	Drain #1	Iron	2.05	mg/L	1	2.05	none	N/A
D	10/30/10	Drain #1	Aluminum	1.54	mg/L	0.75	2.053333333	none	N/A
D	10/30/10	Drain #2	Zinc	0.279	mg/L	0.11	2.536363636	0.12	2.3
D	10/30/10	Drain #2	N+N	13	mg/L	0.068	191.1764706	none	N/A
D	10/30/10	Drain #2	Iron	3.11	mg/L	1	3.11	none	N/A
D	10/30/10	Drain #2	Aluminum	1.34	mg/L	0.75	1.786666667	none	N/A
D	10/30/10	Drain #2	Specific Conductance	303	umohs/cm	200	1.515	none	N/A
D	12/17/10	Drain #1	Total Suspended Solids	178	mg/L	100	1.78	none	N/A
D	12/17/10	Drain #1	Oil & Grease	35.2	mg/L	15	2.346666667	none	N/A
D	12/17/10	Drain #1	Zinc	0.555	mg/L	0.11	5.045454545	0.12	4.6
D	12/17/10	Drain #1	N+N	1.88	mg/L	0.068	27.64705882	none	N/A
D	12/17/10	Drain #1	Iron	11.3	mg/L	1	11.3	none	N/A
D	12/17/10	Drain #1	Aluminum	6.8	mg/L	0.75	9.066666667	none	N/A
D	12/17/10	Drain #2	Zinc	0.321	mg/L	0.11	2.918181818	0.12	2.7
D	12/17/10	Drain #2	N+N	0.566	mg/L	0.068	8.323529412	none	N/A
D	12/17/10	Drain #2	Iron	2.21	mg/L	1	2.21	none	N/A
D	12/17/10	Drain #2	Aluminum	1.7	mg/L	0.75	2.266666667	none	N/A
2011/2012 WET SEASON									
D	11/4/11	Drain #1 North	Zinc	0.19	mg/L	0.11	1.727272727	0.12	1.6
D	11/4/11	Drain #1 North	N+N	1.1	mg/L	0.068	16.17647059	none	N/A
D	11/4/11	Drain #2 South	Zinc	0.27	mg/L	0.11	2.454545455	0.12	2.3
D	11/4/11	Drain #2 South	N+N	4.2	mg/L	0.068	61.76470588	none	N/A
D	11/4/11	Drain #2 South	Iron	2.5	mg/L	1	2.5	none	N/A
D	11/4/11	Drain #2 South	Aluminum	1.6	mg/L	0.75	2.133333333	none	N/A
D	2/15/12	Drain #1 North	Chemical Oxygen Demand	180	mg/L	110	1.636363636	none	N/A
D	2/15/12	Drain #1 North	Zinc	0.3	mg/L	0.11	2.727272727	0.12	2.5
D	2/15/12	Drain #1 North	N+N	4	mg/L	0.068	58.82352941	none	N/A
D	2/15/12	Drain #1 North	Iron	2.4	mg/L	1	2.4	none	N/A
D	2/15/12	Drain #1 North	Aluminum	1.7	mg/L	0.75	2.266666667	none	N/A
D	2/15/12	Drain #1 North	Specific Conductance	280	umohs/cm	200	1.4	none	N/A
D	2/15/12	Drain #2 South	Oil & Grease	26	mg/L	15	1.733333333	none	N/A
D	2/15/12	Drain #2 South	Chemical Oxygen Demand	330	mg/L	110	3	none	N/A
D	2/15/12	Drain #2 South	Zinc	0.23	mg/L	0.11	2.090909091	0.12	1.9
D	2/15/12	Drain #2 South	N+N	0.63	mg/L	0.068	9.264705882	none	N/A
D	2/15/12	Drain #2 South	Iron	3.6	mg/L	1	3.6	none	N/A
D	2/15/12	Drain #2 South	Aluminum	1.8	mg/L	0.75	2.4	none	N/A
2012/2013 WET SEASON									
W	2/28/14	South Drain	Zinc	0.33	mg/L	0.11	3	0.12	2.8
W	2/28/14	South Drain	Iron	6.2	mg/L	1	6.2	none	N/A
W	2/28/14	South Drain	Aluminum	2.8	mg/L	0.75	3.733333333	none	N/A
W	2/28/14	South Drain	Copper	0.14	mg/L	0.0123	11.38211382	none	N/A
W	4/1/14	South Drain	Zinc	0.49	mg/L	0.11	4.454545455	0.12	4.1
W	4/1/14	South Drain	Iron	3.3	mg/L	1	3.3	none	N/A
W	4/1/14	South Drain	Aluminum	1.9	mg/L	0.75	2.533333333	none	N/A
W	4/1/14	South Drain	Copper	0.13	mg/L	0.0123	10.56910569	none	N/A



**Exhibit B**



Sample collected by Waterkeeper (W) or Discharger (D)	Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria	Magnitude of CTR Exceedance
2008/2009 WET SEASON									
no samples collected									
2009/2010 WET SEASON									
D	12/7/09	Drain #1 North	Zinc	0.267	mg/L	0.11	2.427272727	0.12	2.2
D	12/7/09	Drain #1 North	N+N	0.395	mg/L	0.068	5.808823529	none	N/A
D	12/7/09	Drain #1 North	Iron	1.33	mg/L	1	1.33	none	N/A
D	12/7/09	Drain #1 North	Aluminum	1.11	mg/L	0.75	1.48	none	N/A
D	12/7/09	Drain #1 North	Total Suspended Solids	38	mg/L	100	0	none	N/A
D	12/7/09	Drain #1 North	pH	7.3	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	12/7/09	Drain #1 North	Specific Conductance	35.5	umohs/cm	200	0	none	N/A
D	12/7/09	Drain #2 South	Zinc	0.16	mg/L	0.11	1.454545455	0.12	1.3
D	12/7/09	Drain #2 South	N+N	0.555	mg/L	0.068	8.161764706	none	N/A
D	12/7/09	Drain #2 South	Iron	1.39	mg/L	1	1.39	none	N/A
D	12/7/09	Drain #2 South	Aluminum	0.959	mg/L	0.75	1.278666667	none	N/A
D	12/7/09	Drain #2 South	Total Suspended Solids	60	mg/L	100	0	none	N/A
D	12/7/09	Drain #2 South	pH	7.3	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	12/7/09	Drain #2 South	Specific Conductance	49.3	umohs/cm	200	0	none	N/A
2010/2011 WET SEASON									
D	10/30/10	Drain #1	Zinc	0.55	mg/L	0.11	5	0.12	4.6
D	10/30/10	Drain #1	N+N	1.84	mg/L	0.068	27.05882353	none	N/A
D	10/30/10	Drain #1	Iron	2.05	mg/L	1	2.05	none	N/A
D	10/30/10	Drain #1	Aluminum	1.54	mg/L	0.75	2.053333333	none	N/A
D	10/30/10	Drain #1	Total Suspended Solids	88	mg/L	100	0	none	N/A
D	10/30/10	Drain #1	pH	7	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	10/30/10	Drain #1	Specific Conductance	157	umohs/cm	200	0	none	N/A
D	10/30/10	Drain #2	Zinc	0.279	mg/L	0.11	2.536363636	0.12	2.3
D	10/30/10	Drain #2	N+N	13	mg/L	0.068	191.1764706	none	N/A
D	10/30/10	Drain #2	Iron	3.11	mg/L	1	3.11	none	N/A
D	10/30/10	Drain #2	Aluminum	1.34	mg/L	0.75	1.786666667	none	N/A
D	10/30/10	Drain #2	Specific Conductance	303	umohs/cm	200	1.515	none	N/A
D	10/30/10	Drain #2	Total Suspended Solids	65	mg/L	100	0	none	N/A
D	10/30/10	Drain #2	pH	6.9	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	10/30/10	Drain #2	Oil & Grease	7.3	mg/L	15	0	none	N/A
D	12/17/10	Drain #1	Total Suspended Solids	178	mg/L	100	1.78	none	N/A
D	12/17/10	Drain #1	Oil & Grease	35.2	mg/L	15	2.346666667	none	N/A
D	12/17/10	Drain #1	Zinc	0.555	mg/L	0.11	5.045454545	0.12	4.6
D	12/17/10	Drain #1	N+N	1.88	mg/L	0.068	27.64705882	none	N/A
D	12/17/10	Drain #1	Iron	11.3	mg/L	1	11.3	none	N/A
D	12/17/10	Drain #1	Aluminum	6.8	mg/L	0.75	9.066666667	none	N/A
D	12/17/10	Drain #1	pH	8.1	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	12/17/10	Drain #1	Specific Conductance	148	umohs/cm	200	0	none	N/A
D	12/17/10	Drain #2	Zinc	0.321	mg/L	0.11	2.918181818	0.12	2.7
D	12/17/10	Drain #2	N+N	0.566	mg/L	0.068	8.323529412	none	N/A
D	12/17/10	Drain #2	Iron	2.21	mg/L	1	2.21	none	N/A
D	12/17/10	Drain #2	Aluminum	1.7	mg/L	0.75	2.266666667	none	N/A
D	12/17/10	Drain #2	Total Suspended Solids	48.5	mg/L	100	0	none	N/A
D	12/17/10	Drain #2	pH	7.7	s.u.	6.0-9.0	0	6.5-8.5	N/A
D	12/17/10	Drain #2	Specific Conductance	55.6	umohs/cm	200	0	none	N/A
2011/2012 WET SEASON									
D	11/4/11	Drain #1 North	Zinc	0.19	mg/L	0.11	1.727272727	0.12	1.6
D	11/4/11	Drain #1 North	N+N	1.1	mg/L	0.068	16.17647059	none	N/A
D	11/4/11	Drain #1 North	Total Suspended Solids	18	mg/L	100	0	none	N/A
D	11/4/11	Drain #1 North	pH	6.89	s.u.	6.0-9.0	N/A	6.5-8.5	N/A
D	11/4/11	Drain #1 North	Specific Conductance	60	umohs/cm	200	0	none	N/A
D	11/4/11	Drain #1 North	Iron	0.56	mg/L	1	0	none	N/A
D	11/4/11	Drain #1 North	Aluminum	0.55	mg/L	0.75	0	none	N/A
D	11/4/11	Drain #2 South	Zinc	0.27	mg/L	0.11	2.454545455	0.12	2.3
D	11/4/11	Drain #2 South	N+N	4.2	mg/L	0.068	61.76470588	none	N/A
D	11/4/11	Drain #2 South	Iron	2.5	mg/L	1	2.5	none	N/A



Sample collected by Waterkeeper (W) or Discharger (D)	Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria	Magnitude of CTR Exceedance
D	11/4/11	Drain #2 South	Aluminum	1.6	mg/L	0.75	2.133333333	none	N/A
D	11/4/11	Drain #2 South	Total Suspended Solids	55	mg/L	100	0	none	N/A
D	11/4/11	Drain #2 South	pH	7.38	s.u.	6.0-9.0	N/A	6.5-8.5	N/A
D	11/4/11	Drain #2 South	Specific Conductance	170	umohs/cm	200	0	none	N/A
D	11/4/11	Drain #2 South	Oil & Grease	5.9	mg/L	15	0	none	N/A
D	2/15/12	Drain #1 North	Chemical Oxygen Demand	180	mg/L	110	1.636363636	none	N/A
D	2/15/12	Drain #1 North	Zinc	0.3	mg/L	0.11	2.727272727	0.12	2.5
D	2/15/12	Drain #1 North	N+N	4	mg/L	0.068	58.82352941	none	N/A
D	2/15/12	Drain #1 North	Iron	2.4	mg/L	1	2.4	none	N/A
D	2/15/12	Drain #1 North	Aluminum	1.7	mg/L	0.75	2.266666667	none	N/A
D	2/15/12	Drain #1 North	Specific Conductance	190	umohs/cm	200	0	none	N/A
D	2/15/12	Drain #1 North	Total Suspended Solids	66	mg/L	100	0	none	N/A
D	2/15/12	Drain #1 North	pH	7.27	s.u.	6.0-9.0	N/A	6.5-8.5	N/A
D	2/15/12	Drain #2 South	Specific Conductance	280	umohs/cm	200	1.4	none	N/A
D	2/15/12	Drain #2 South	Oil & Grease	26	mg/L	15	1.733333333	none	N/A
D	2/15/12	Drain #2 South	Chemical Oxygen Demand	330	mg/L	110	3	none	N/A
D	2/15/12	Drain #2 South	Zinc	0.23	mg/L	0.11	2.090909091	0.12	1.9
D	2/15/12	Drain #2 South	N+N	0.63	mg/L	0.068	9.264705882	none	N/A
D	2/15/12	Drain #2 South	Iron	3.6	mg/L	1	3.6	none	N/A
D	2/15/12	Drain #2 South	Aluminum	1.8	mg/L	0.75	2.4	none	N/A
D	2/15/12	Drain #2 South	Total Suspended Solids	82	mg/L	100	0	none	N/A
D	2/15/12	Drain #2 South	pH	8.34	s.u.	6.0-9.0	N/A	6.5-8.5	N/A
2012/2013 WET SEASON									
W	2/28/14	South Drain	Zinc	0.33	mg/L	0.11	3	0.12	2.8
W	2/28/14	South Drain	Iron	6.2	mg/L	1	6.2	none	N/A
W	2/28/14	South Drain	Aluminum	2.8	mg/L	0.75	3.733333333	none	N/A
W	2/28/14	South Drain	Copper	0.14	mg/L	0.0123	11.38211382	none	N/A
W	4/1/14	South Drain	Zinc	0.49	mg/L	0.11	4.454545455	0.12	4.1
W	4/1/14	South Drain	Iron	3.3	mg/L	1	3.3	none	N/A
W	4/1/14	South Drain	Aluminum	1.9	mg/L	0.75	2.533333333	none	N/A
W	4/1/14	South Drain	Copper	0.13	mg/L	0.0123	10.56910569	none	N/A







**Exhibit C**



San Bernardino County Yard Rain Gauge		
Date	Day of the Week	Daily Precip (inches)
11/28/09	Saturday	0.39
12/7/09	Monday	0.91
12/13/09	Sunday	0.2
12/22/09	Tuesday	0.28
1/17/10	Sunday	0.15
1/21/10	Thursday	2.4
1/22/10	Friday	1.7
2/10/10	Wednesday	0.27
2/21/10	Sunday	0.16
2/22/10	Monday	0.24
2/27/10	Saturday	0.86
2/28/10	Sunday	0.36
3/6/10	Saturday	0.24
3/7/10	Sunday	1.34
4/12/10	Monday	0.67
4/22/10	Thursday	0.16
10/25/10	Monday	0.27
11/8/10	Monday	0.28
12/5/10	Sunday	0.28
12/16/10	Thursday	0.23
12/17/10	Friday	0.36
12/18/10	Saturday	0.27
12/19/10	Sunday	2.4
12/20/10	Monday	2.6
12/21/10	Tuesday	1.97
12/22/10	Wednesday	2.95
12/25/10	Saturday	0.16
12/29/10	Wednesday	0.39
1/2/11	Sunday	0.2
1/30/11	Sunday	0.51
2/17/11	Thursday	0.16
2/18/11	Friday	0.19
2/19/11	Saturday	0.95
2/25/11	Friday	0.31
2/26/11	Saturday	1.03
5/18/11	Wednesday	0.31
10/5/11	Wednesday	0.94
11/4/11	Friday	0.36
11/20/11	Sunday	0.75
12/12/11	Monday	0.43

1/21/12	Saturday	0.4
1/23/12	Monday	0.23
2/15/12	Wednesday	0.12
2/27/12	Monday	0.28
3/17/12	Saturday	0.79
3/18/12	Sunday	0.24
3/25/12	Sunday	0.23
3/26/12	Monday	0.16
4/11/12	Wednesday	0.2
4/13/12	Friday	0.51
4/26/12	Thursday	0.55
10/11/12	Thursday	0.28
11/8/12	Thursday	0.39
11/30/12	Friday	0.31
12/12/12	Wednesday	0.12
12/13/12	Thursday	1.49
12/18/12	Tuesday	0.2
12/24/12	Monday	0.31
12/26/12	Wednesday	0.24
12/29/12	Saturday	0.28
1/6/13	Sunday	0.11
1/25/13	Friday	0.55
1/27/13	Sunday	0.24
2/8/13	Friday	0.55
2/19/13	Tuesday	0.31
2/20/13	Wednesday	0.36
3/8/13	Friday	0.59
10/9/13	Wednesday	0.47
11/21/13	Thursday	3.35
12/19/13	Thursday	0.16
2/27/14	Thursday	0.2
2/28/14	Friday	1.89
3/1/14	Saturday	0.43
4/2/14	Wednesday	0.27
4/25/14	Friday	0.36
4/26/14	Saturday	0.39



